IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2447 OF 2006.

Abdul Wahid Ahmed Hussain Shaikh ..Petitioner

versus

The State of Maharashtra
(at the instance of Shahunagar
Police Station, Dharavi, Mumbai) ..Respondent.

Mr.Sanjeev Kadam for the Petitioner

Mrs. A.S.Pai for the Respondent

Coram : S.B.Mhase &
S.R.Sathe, JJ.
Dated : 14th November, 2006

P.C.

1. This petition has been moved across the bar by the petitioner after giving notice to the State and the Police Station. Mrs. Pai appears for the State in this matter.

2. Office is directed to register and number this petition.

3. By this petition the petitioner is seeking direction to the Superintendent of Nasik Central Prison, to release the detenue Sheriff @ Kalya Mohammed Rafiq Shaikh on a temporary bail for a period of four days with police escort for the purpose of last rites etc. The mother of detenue

Fatimabi Mohammed Rafiq Shaikh has expired and her dead body is with the Sion Hospital. Death Certificate has been produced on record. In order to take further steps in respect of the last rites of the deceased, the petitioner states that the presence of the detenue is very much necessary and therefore this petition has been filed. The regular petition challenging the detention order of the detenue is pending, otherwise and that will be considered in due course. However, the urgency is to perform the last rites of the deceased and therefore bail has been prayed. The learned Counsel for the respondents State admits that mother of the detenue has expired and the said fact has been also confirmed by the learned Counsel from the Police Officers. However, the learned Counsel for the State opposed for grant of bail, but she submitted that the detenue will be taken in police custody to the hospital and to the funeral place so as to perform the last obsequies of the deceased. Under these circumstances, we also find it appropriate not to grant blanket bail in favour of the detenue, but instead we think it proper that the detenue is taken to the hospital or to the funeral place escorted by the police so as to perform the last rites of the

deceased. Therefore, we pass the following order:

. The respondent is hereby directed to take the detenue Sherief @ Kalya Mohamed Rafiq Shaikh, presently in detention at Nasik Central Prison under sub section (2) of Section 3 of the Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug Offenders and Dangerous Persons Act, 1981, to the Sion Hospital so as to take the custody of the dead body of his deceased mother Fatimabi Mohammed Rafiq Shaikh, and further to the funeral place for the purpose of last rites of his mother, escorted by the police.

. Order to be implemented immediately so that the last rites of Fatimabi Mohammed Shaikh will be performed and immediately on completion of the last rites, the detenue shall be kept in detention. With this direction this petition is disposed of.

(S.R.Sathe, J.) **(S.B.Mhase, J.)**